

February 19, 2016

Mr. Robert deV. Frierson, Secretary
Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue, N.W.
Washington, D.C. 20551

Re: Total Loss-Absorbing Capacity, Long-Term Debt, and Clean Holding Company Requirements for Systemically Important U.S. Bank Holding Companies and Intermediate Holding Companies of Systemically Important Foreign Banking Organizations; Regulatory Capital Deduction for Investments in Certain Unsecured Debt of Systemically Important U.S. Bank Holding Companies

Docket No. R-1523, RIN 7100-AE37

Ladies and Gentlemen:

Deutsche Bank AG (“**Deutsche Bank**”) appreciates the opportunity to provide comments to the Board of Governors of the Federal Reserve System (the “**Board**”), Notice of Proposed Rulemaking entitled Total Loss-Absorbing Capacity, Long-Term Debt, and Clean Holding Company Requirements for Systemically Important U.S. Bank Holding Companies and Intermediate Holding Companies of Systemically Important Foreign Banking Organizations; Regulatory Capital Deduction for Investments in Certain Unsecured Debt of Systemically Important U.S. Bank Holding Companies (the “**Proposal**”). Our comments, in the Annex to this cover letter, relate specifically to the section of the Federal Reserve’s proposals on IHCs.

Deutsche Bank supports the Total Loss Absorption Capacity (“**TLAC**”) proposals of both the Financial Stability Board (“**FSB**”), and the Federal Reserve. We believe that the stability of our Intermediate Holding Company (“**IHC**”) will be improved by these provisions and that well designed internal TLAC requirements for IHCs can help the goal of achieving global cooperation between home and host authorities in cases of bank resolution.

We would like to take the opportunity to commend the Board for explicitly recognizing the benefits of having a strong home country parent, and a resolution strategy that maintains the IHC as an independently

functioning entity should the parent enter into resolution. Deutsche Bank believes that the recognition and incentive of an IHC to pursue a Single Point of Entry (“SPOE”) resolution strategy further enhances the Proposal and its stated objectives.

However, we believe that there are areas in this Proposal that may benefit from the suggestions and comments we put forth to the Board for consideration which are designed to achieve an equitable balance in both the provisions and calibrations in order to further reduce financial stability and too-big-to-fail concerns.

Deutsche Bank elaborates on these aforementioned points in detail in the Annex, but we would like to highlight the overarching need to ensure that individual provisions are not duplicative, and are proportionately calibrated. As we discuss in Section 1 of the Annex, and in-line with the letters submitted by The Clearing House (“TCH”) and the Institute of International Bankers (“IIB”) we oppose the inclusion of a separate minimum Long Term Debt (“LDT”) requirement that cannot be met using TLAC instruments other than debt securities. In addition, we have several concerns with proposed regulatory deductions for holdings of TLAC, which we set out in greater detail in our response to the Basel Committee on Banking Supervision (“BCBS”) consultation on TLAC Holdings.

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Deutsche Bank appreciates the opportunity to provide the Board with the foregoing comments and recommendations regarding the Proposal. Specific comments and suggestions are included in the attached Annex, which forms an integral part of our submission.

Respectfully submitted,



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ANNEX to Deutsche Bank's Comment Letter Dated February 19, 2016

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1. Minimum internal Long Term Debt (LTD) requirement

In the Board's Proposal, Question 31 asks whether having both an internal Total Loss Absorbing Capacity ("iTLAC") requirement and an internal LTD requirement is needed, or whether the provisions for covered IHCs should be limited to an LTD requirement. Deutsche Bank supports maintaining the internal TLAC requirement. Indeed, we strongly support the FSB's approach that TLAC should be made up of both regulatory capital and debt, and that there should be an understanding that as a matter of good practice debt should make up around one third of TLAC, rather than a binding requirement. In our view, the Board proposed LTD minimum goes well beyond this global approach, in that the minimum LTD requirement is binding and as per the example below, is a significantly higher proportion of a total TLAC requirement than the FSB indicated. We believe that this level of mandatory LTD incentives against an IHC increasing its level of capitalization. TLAC requirements should be set such that they encourage capital formation – given that equity is the most loss-absorbing instrument.

As an example, consider a hypothetical non-resolution IHC that holds USD 50billion of Risk Weighted Assets ("RWA"). Based on the Board's proposed 18.5% TLAC requirement (fully loaded, including the 2.5% buffer) this would mean a TLAC requirement of USD 9.25billion. Under this approach, the IHC could meet this requirement by holding USD 6.25billion of capital and USD 3billion¹ of TLAC eligible LTD. However, the actual volume of eligible LTD that can be used for TLAC purposes will need to be approximately 30% higher than the USD 3billion due to the hair-cuts proposed (further explained in Section 2 below). Thus, because of the haircuts, this IHC would require a further USD 1.5+ billion of additional LTD to satisfy the Board's minimum LTD requirement. The need to raise additional LTD to meet both the heightened LTD minimum and the de-facto buffer introduced by the haircut approach, means that more of the requirement is met by LTD, leaving less of the internal

¹ Assuming the bank opts for a 33:66 split for LTD to equity

TLAC requirement to be met with equity. Despite the fact that, as stated before, equity is the most loss-absorbing instrument, these layered eligible LTD buffers will result in less capital formation being incentivized.

This fact pattern can be rectified by eliminating the minimum LTD requirement. The proposed TLAC rules (with our suggested amendments) would alone provide for sufficient loss absorbing and capital refill capacity to achieve the objectives set-out by the Board in a proportional manner.

2. Haircut for debt with between one and two years maturity:

While we appreciate the Board's broader policy objective of reducing reliance by U.S. BHCs and Covered IHCs on short-term funding sources, we believe that the imposition of a 50% haircut on internal TLAC eligible LTD with a remaining term to maturity of between one and two years to be inappropriate and penalizing.

Typically haircuts of this type would help incentivize issuers to use longer-term debt to replace debt with a short remaining term. This would minimize the risk of diminished market access with little time left to the maturity of such debt and consequent reduction in TLAC. When looking at an SPOE bank with only an internal TLAC requirement, this is not a concern. The need of the foreign parent to ensure that its U.S. IHC remains stable and in compliance with U.S. regulatory requirements will ensure that there is no realistic risk that the foreign parent will fail to roll-over shorter-term debt of its IHC and permit it to fall short of its internal TLAC requirements. At the point of non-viability, the U.S. authorities will be able to bail-in the requisite minimum amount of TLAC eligible debt, regardless of its remaining maturity, eliminating concerns that a shortfall might exist.

We also would like to highlight that the 50% (and 100%) haircuts as currently designed, act as de-facto additional buffers on top of the minimum TLAC and LTD requirements. A bank will ladder the maturities of its TLAC eligible debt to ensure a stable and manageable funding profile and roll-over schedule. This means that at any time, a portion of the TLAC eligible debt will be of less than 2 years maturity. If this otherwise eligible debt is either partially recognized (when it has a one to two year maturity) or not recognized at all (debt with less than one year maturity) for meeting TLAC requirements, additional LTD will need to be issued to offset the amount of disqualified debt. This means that the IHC will, in fact, be terming-out by the value of the debt of less than two years maturity. This debt, however, remains bail-inable at the point of resolution, meaning that, de-facto, 50% of the debt between one and two years maturity, and 100% of the debt of under one year maturity, acts as an additional TLAC buffer. An indicative example is as follows:

An IHC has a total internal TLAC requirement that needs to be met by USD 5billion of LTD. A funding desk manager divides this into equal tranches of USD 1billion per year for five years to have an average duration of between two and three years. In this example, USD 1billion of the \$5billion would not qualify for TLAC as the maturity is less than one year. Another USD 1billion would be haircut at 50% for being of between one and two years in maturity, resulting in another USD 0.5 billion not qualifying. This means that the overall eligible LTD issued must be increased by at least USD 1.5billion in order to ensure that the eligible ‘un-haircutted’ LTD amounts to the minimum required USD 5billion. At the point of a bail-in, however, all of this outstanding debt would be bail-inable, regardless of maturity – resulting in a TLAC bail-in on USD 6.5+billion. The result of this is a 30% (or more) buffer on the debt portion used to satisfy TLAC requirements.

While it would be possible to roll-over debt as it approaches the 24 month maturity point, this additional cost and complexity adds no value, particularly in the case of internal TLAC where roll-over and market risk are not factors for consideration. Furthermore, it is our understanding that the Board has previously been uncomfortable with these type of callable structures.

3. 2.5% buffer for RWA-linked TLAC requirement:

As stated above, due to the design of the haircuts on eligible debt of between one and two years, a de-facto buffer already exists in the minimum TLAC LTD requirement. Therefore, requiring both the haircuts and the buffer of 2.5% of RWAs is duplicative and unnecessary. In addition, we do not believe the proposed 2.5% buffer brings any clear benefit for non-resolution IHCs and suggest that the Board consider its elimination.

The proposed 2.5% RWA buffer sits above any existing minimum internal TLAC risk based capital requirements. We understand the Board’s desire to increase market confidence for BHCs seeking funding from third parties – and additional layers of TLAC buffers may help in this regard – however, such considerations are not relevant in the case of a non-resolution IHC which will only obtain funding from its foreign parent.

Therefore the additional TLAC buffer unnecessarily strands liquidity. This is undesirable at the best of times, but is of even more concern currently, given the much discussed pressures on market liquidity broadly faced in the market, both in the U.S. and globally. Another consequence of this 2.5% TLAC buffer is to unnecessarily inflate

the size of the IHC's balance sheet. Accordingly, we believe that there is a strong case for eliminating the 2.5% RWA buffer for Covered IHCs subject only to internal TLAC requirements.

4. Contractual and Structural Subordination:

Deutsche Bank supports the provision in the Proposal that IHCs should operate using a clean HoldCo structure, as this ensures that any TLAC-eligible debt an IHC issues is structurally subordinated. Clean HoldCo requirements further ensure that the IHC can be rapidly recapitalized and that this process is not subject to delays caused by claims of third party creditors. This rapid recapitalization also facilitates the SPOE strategy which, from a foreign group perspective, is operationally simpler than an MPOE approach, as it avoids multiple bail-in actions in parallel at the point of non-viability.

However, we question the rationale for adding a contractual subordination condition to internal TLAC eligible LTD, when such eligible debt will already be structurally subordinated as the IHC operates in compliance with the clean HoldCo requirements. Deutsche Bank agrees that a form of subordination is necessary where there is a material amount of pari passu liabilities outstanding. This would potentially lead to legal uncertainty around the bail-in, or impact on liabilities important for the day-to-day operations of the IHC and its operating subsidiaries. However, once subordination is achieved structurally – via the requirement for a clean HoldCo similar to that for BHCs – contractual subordination is unnecessary, creates additional complexity and provides no additional benefit. By complying with the clean HoldCo requirements, there will be no other liabilities at the IHC level to which the eligible debt would need to be contractually subordinated. Furthermore, the contractual subordination requirement will increase the cost of raising internal TLAC-eligible debt because IHCs will need to price internal TLAC debt funding in line with market pricing and, pursuant to such market pricing, the rate of contractually subordinated debt would be higher than for senior debt that is only structurally subordinated.

We ask the Board to reconsider this duplicative requirement for contractual subordination, and clarify that where internal TLAC is issued from an IHC in compliance with the "Clean HoldCo requirements," no contractual subordination is necessary. Additionally, this clarification would align with the view that we understand the Board expressed during FSB discussions to the effect that structural subordination was the only necessary condition.

It should also be noted that a contractual subordination requirement does not exist for U.S. BHCs, of which only structural subordination is required. It is not clear to us why different treatment should be afforded to IHCs providing the same level of practical, structural subordination as a U.S. BHC. Doing so creates an unlevel playing field, adding needless cost and complexity to foreign banks, and competitively advantaging U.S. banks.

Finally, we note that where a Foreign Banking Organization (“FBO”) creates a new HoldCo to be designated its IHC, it is unlikely that any “legacy” pari passu financial obligations or liabilities of the IHC would exist, further reducing the need for the duplicative contractual subordination requirement.

5. Calibration and Factoring in Balance Sheet Depletion:

As noted in the discussion in the Proposal on the capital refill for BHCs, an allowance for balance sheet depletion would be appropriate under the capital refill theory, because losses incurred will deplete an BHC’s risk-weighted assets, as well as its capital. If the minimum LTD requirement is to be retained for IHCs, a similar allowance should be granted, since the same balance sheet depletion would occur. At the very least, calibration of internal LTD requirements should grant IHCs the same one percentage point allowance for balance-sheet depletion granted to BHCs. Our view on this is explained further below:

Resolution IHCs

The Proposal notes that resolution entity IHCs are analogous to covered BHCs in that both are resolution entities that are expected to enter into resolution and be recapitalized. Following this logic, the same “capital refill” framework should be used to calibrate the LTD requirements for resolution IHCs as for Covered BHCs, except for the elements of the calibration based on the G-SIB surcharge and the two percent buffer component of the enhanced SLR (each of which is applicable only to G-SIBs).

However, the minimum TLAC and LTD requirements applicable to resolution entity IHCs do not, in fact, appear to have been calculated in the same manner as the corresponding requirements for covered BHCs. Specifically:

- It appears that the minimum risk-weighted LTD ratio applicable to resolution entity IHCs was not reduced by a one percentage point allowance to reflect expected balance-sheet depletion the way the corresponding ratio for covered BHCs was calculated.

- It does not appear that either the minimum LTD SLR or the minimum on-balance-sheet LTD leverage ratio was reduced by a 0.5 percentage point allowance to reflect expected balance-sheet depletion the way the corresponding ratio for covered BHCs was calculated.
- Finally, it does not appear that either the minimum TLAC SLR or the minimum on-balance-sheet TLAC leverage ratio reflected the 0.5 percentage point allowance for expected balance-sheet depletion the way the corresponding ratio for covered BHCs had been.

That said, the Board should amend the Proposal so that the minimum TLAC and LTD requirements (in so far as these are maintained) applicable to resolution entity IHCs reflect the same allowances for balance sheet depletion as the corresponding ratios for covered BHCs. Please refer to the “Calibration” section of the TCH comment letter on TLAC rules applicable to the U.S. IHCs of Foreign G-SIBs for a step by step analysis regarding the basis for the proposed revised calibrations for resolution IHC entities. Our recommended re-calibrated amounts are shown in the table below:

Proposed Minimum Required Ratio or Buffer	Resolution Entity IHCs (MPOE Strategy)		
	Risk-Based Ratio	SLR	On-Balance Sheet Leverage Ratio
Minimum Internal LTD Ratio	None	None	None
Minimum Internal TLAC Ratio	18%	6.75%	7.5% (instead of 9%)
Internal TLAC Buffer	2.5% + countercyclical buffer	N/A	N/A

Non-resolution IHC

The Proposal states that the internal TLAC and LTD requirements applicable to non-resolution entity IHCs would be those for resolution IHCs, but “slightly lower” to reflect the desirability of providing support for the preferred SPOE resolution of the foreign G-SIB entity.

However, the requirements for non-resolution entity IHCs do not consistently reflect this approach of applying requirements lower than those for resolution IHCs. Specifically:

- While the proposed internal TLAC requirements reflect a slight reduction of approximately 10%, the proposed internal LTD requirements are set at the same level as the corresponding requirements for resolution entity IHCs.

If the proposed internal TLAC and, should they be maintained, the minimum LTD ratios applicable to resolution entity IHCs were recalibrated as recommended above, and the same percentage reduction (currently 10%) for non-resolution IHCs was consistently applied to such recalibrated requirements, the resulting minimum internal TLAC and LTD ratios applicable to non-resolution entity IHCs would be as set forth in the following table:

Proposed Minimum Required Ratio or Buffer	Non-Resolution Entity IHCs (SPOE Strategy)		
	Risk-Based Ratio	SLR	On-Balance Sheet Leverage Ratio
Minimum Internal LTD Ratio	None	None	None
Minimum Internal TLAC Ratio	16%	5.35%	6.70%
Internal TLAC Buffer	2.5% + countercyclical buffer	N/A	N/A

It is our view, however, that even if the current proposed percentage reduction for non-resolution IHCs was consistently applied to such recalibrated TLAC and any LTD requirements, the resulting minimum internal TLAC and LTD ratios applicable to non-resolution entity IHCs would still be too high.

In Deutsche Bank's opinion, the requirements should be no more than 75% of the corresponding TLAC and LTD requirements applicable to resolution entity IHCs for several reasons. Calibrating the level at 90% of the corresponding ratios applicable to resolution entity IHCs does not provide home-country resolution authorities enough freedom to use the foreign parent's loss-absorbing capacity wherever necessary at the time of failure to maximize the residual value of the foreign G-SIB and ensure the success of its resolution under the SPOE strategy. Conversely, the proposed calibrations at 90% increase the risk of ring-fencing and suboptimal [mis]allocations. Calibrating the internal ratios for non-resolution IHCs at no more than 75% ensures that enough capital exists to recapitalize the non-resolution IHC, but also ensures that cooperation between home and host authorities is maintained. The risk of a 90% calibration is that the home authority can simply enter the IHC into its domestic

resolution process and does not need to cooperate globally to ensure a smoothly executed SPOE resolution. We believe that setting the calibration ratio too high could result in a globally fragmented resolution system encouraging ex-post ring-fencing. If the Federal Reserve were to calibrate its internal TLAC and any LTD requirements applicable to non-resolution entity IHCs at no more than 75% of the corresponding requirements applicable to resolution-entity IHCs (as recalibrated as recommended above), the resulting minimum internal TLAC and LTD ratios applicable to non-resolution entity IHCs would be as set forth in the following table:

Proposed Minimum Required Ratio or Buffer	Non-Resolution Entity IHCs (SPOE Strategy)		
	Risk-Based Ratio	SLR	On-Balance Sheet Leverage Ratio
Minimum Internal LTD Ratio	None	None	None
Minimum Internal TLAC Ratio	13.5%	5.0%	5.625%
Internal TLAC Buffer	1.875% + 75% of countercyclical buffer	N/A	N/A

Of course should there be further changes made to the calibration points for U.S. BHCs, we would expect these to be reflected in the calibration points for IHCs which could change the figures in these tables.

6. Cross Holdings of TLAC:

A Tier 2 deduction for Financial Sector Entity investments in TLAC-eligible debt of G-SIBS at the levels proposed is unnecessarily conservative and will have a severe impact to TLAC bond liquidity and pricing. While we understand that the objective is to limit cross-holdings of TLAC, it is important to remember the banks will need to issue a wide amount of subordinated debt to meet their TLAC standard. At a minimum we strongly recommend the following changes: 1) establishment of a market making exemption; 2) The replacement of the Tier 2 deduction approach with the application of the existing Basel III corresponding deduction approach to TLAC eligible debt; 3) Provisions for non-GSIB exposures to be aligned to and captured by the existing Basel large

exposures regime²; and 4) creation of a separate threshold of 10% for senior TLAC instruments to be added to the existing threshold set at 10% of common equity.

Our views here are set out in detail in our response to the Basel Committee on Banking Supervision's consultation on TLAC Holdings³ as well as those submitted by the Institute of International Finance.

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² <http://www.bis.org/publ/bcbs283.pdf>

³ <http://www.bis.org/bcbs/publ/d342.pdf>